CHAPTER
11

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11.1 General Provisions

A) Purpose. The purpose of this chapter is to provide for the efficient, reasonable, and impartial administration and enforcement of these regulations and establish a procedure for compliance with the regulations.

B) Complete Application Required. A complete application must be submitted electronically along with one hard (paper) copy to initiate review by the County. The application shall contain a complete application form, required supporting material, and all applicable fees.

C) Burden of Proof. The burden to prove intent and compliance with these regulations rests fully on the applicant or property owner. If the County determines that additional information is needed, the additional information requested must be submitted prior to review.

D) Fees. No application or request shall be considered complete unless accompanied by all required fees paid in full. Fees are established by the Board of County Commissioners in an adopted fee schedule. A schedule of fees related to these regulations is available from the Planning, Development and Sustainability Department and can be found on the department's website.

E) Initiation. Unless otherwise specified, all applications must be initiated by the subject property owner(s) or the subject property owners' authorized agent.

F) Applicant Required to be Present. The applicant or their authorized agent must be physically present at any meeting required by these regulations unless a virtual appearance is authorized. Failure to appear either in person or virtually is grounds for disapproval of any application.

G) Notice Requirements. Notice requirements for any action described in this chapter shall meet the minimum requirements and follow the timeframes set forth in the applicable section of the Montana Code Annotated. This does not preclude the County from holding additional meetings or hearings in consideration of a proposal or taking additional steps to notify the public of an action under consideration.

H) Continuation of a Public Hearing.

1. Hearings may be adjourned and continued at a subsequent meeting, subject to all the following requirements:

   a. Any board may continue a public hearing without additional notice if the time, date, and place of the continued hearing are announced during the advertised public hearing, and no material changes in the request are made between the public meetings.

   b. If the continued hearing will address material changes to the request or new issues brought up during the original hearing, the Zoning Officer shall post notice of the continued hearing which, at minimum, identifies the property or district boundary, summarizes the material changes or issues of concern and provides the date, time and location of the hearing at least 48 hours in advance of

the hearing in a newspaper of general circulation.

2. If a quorum is not present at the originally noticed public meeting, the public hearing is automatically continued to a subsequent regular meeting of the Board of County Commissioners or appropriate board with no additional notice needed.

I) Approvals Run with the Land. Unless otherwise provided by these regulations or state law, all rights, privileges, benefits, burdens, and obligations created through the application and administration of these regulations attach to and run with the applicable property regardless of ownership.

J) Files and Records. A record of all zoning actions shall be kept on file in the Planning, Development and Sustainability Department and recorded with the Missoula County Clerk and Recorder. Such records shall be made available for public inspection in accordance with the County's most current Public Information and Record Requests Policy. Reimbursement for the cost of providing electronic or paper copies shall be required by the County in accordance with the adopted fee schedule.

11.2 Duties Related to Code Administration

A) Zoning Officer. The Zoning Officer shall have the following duties under these regulations:

1. Delegate authority to carry out the administrative and enforcement duties and processes established in these regulations.

2. Establish processes and procedures that carry out the intent and standards of these regulations, including, but not limited to, the following:

a. The creation and maintenance of different types of land use and zoning permit applications to address specific requests with discrete requirements (*e.g.*, signs, home occupations, etc.) including all necessary permit forms, checklists, submittal deadlines and requirements, informational materials, and other items necessary for efficient and effective intake, distribution, review, and decision-making.

b. The creation and maintenance of materials necessary to address specific legislative action requests including all necessary application forms checklists, submittal calendars, hearing and meeting requirements, informational materials, and other items necessary for efficient and effective intake, distribution, review, and staff findings and recommendations to the Planning Board and County Commission.

c. The creation and maintenance of materials necessary to address specific quasi-judicial action requests including all necessary application forms, checklists, submittal calendars, hearing and meeting requirements, informational materials, and other items necessary for efficient and effective intake, distribution, review, and staff findings and recommendations to the Board of Adjustment.

3. Issue Zoning Compliance Permits.

4. Determine vested rights claims.

5. Issue minor waivers.

6. Maintain files and records to document all matters relating to zoning within Missoula County.

7. Receive and process all zoning requests in accordance with the provisions of these regulations.

8. Publish notice of public hearings as required by these regulations and applicable state statutes.

9. Prepare materials (*e.g.*, maps, agendas, property descriptions, survey sheets) as may be necessary for the appropriate body to conduct proper meetings for the purpose of administering these regulations.

10. Provide written findings and recommendations for petitions and requests and the background information required to support such findings and recommendations to the appropriate body.

11. Coordinate closely with the City of Missoula on matters relating to annexation to allow for the smooth transition of land uses from one zoning district to another.

12. Ensure all materials and documents relating to zoning within Missoula County are properly filed with the Missoula County Clerk and Recorder as required by the applicable statutes.

13. Act as an administrative agent of the Missoula Consolidated Planning Board and Board of Adjustment.

14. Provide zoning information to the public and government agencies and officials to assist in the interpretation and understanding of the meaning and intent of these regulations and otherwise promote procedural uniformity in the administration of these regulations.

15. Initiate appropriate investigatory action for apparent zoning violations.

16. Refer any matters under appeal to the Board of Adjustment for their action.

17. Inspect subject premises in the performance of these duties. The Zoning Officer or their designee may enter any premises to investigate and inspect during reasonable hours. Except in cases involving an imminent threat to public health, safety, or welfare, or when a warrant has been obtained from a court of competent jurisdiction, entry requires the consent and presence of the owner or applicant and the tenant(s) of the premises being inspected.

18. Any other duties necessary for the administration of these regulations

as provided for by state statute.

B) The Consolidated Planning Board. The Planning Board shall act in an advisory capacity to the Board of County Commissioners on matters related to these regulations, in accordance with established bylaws and as specified below.

1. Make recommendations regarding the establishment or amendment of zoning regulations and the creation of zoning district boundaries in accordance with §76-2-204 MCA.
2. Make recommendations regarding the adoption or amendment of a growth policy and any other planning document designed to be a guide for the orderly development of the community, and any other matter referred to it by the Board of Commissioners not inconsistent with the Interlocal Agreement or §76-1-106 MCA.
3. Any other duties necessary for the administration of these regulations as provided for by state statute.

C) The Zoning Board of Adjustment. The Zoning Board of Adjustment, referred to simply as the Board of Adjustment, provides equality and flexibility in the administration of these regulations through the following duties.

1. Authorize a variance from these regulations in a manner that ensures the spirit of the zoning regulations are observed and substantial conformance with the review criteria demonstrated.
2. Hear and decide on Special Exception Permit applications according to the terms of these regulations upon which the Board of Adjustment is required to decide.
3. Hear and decide appeals when it is alleged there has been an error in any order, requirement, decision, or determination made by the Zoning Officer or their designee in the administration and enforcement of these regulations.

D) The Board of County Commissioners. The Board of Commissioners shall have the following duties and powers.

1. Decide upon any application or request for an amendment to these regulations or the official zoning maps.
2. Establish interim zoning districts and regulations to address an emergency that involves public health, safety, and general welfare in accordance with §76-2-206 MCA.
3. Review and initiate changes to these regulations.
4. Take any other action not otherwise delegated to the Zoning Officer, the Planning Board, or the Board of Adjustment as the Board of Commissioners may deem desirable and necessary to implement these regulations.

11.3 Types of Decisions

Different types of decisions require different processes and procedures. Table 1 lists actions along with their associated decision type and which entity has authority for decision-making. The remainder of this chapter addresses the specific processes and procedures for each type of decision and action.

Table 1 Types of Decisions

ACTION	DECISION TYPE	DECISION MAKER
Zoning Compliance Permits	Administrative	Zoning Officer
Determine a vested rights claim	Administrative	Zoning Officer
Minor waivers	Administrative	Zoning Officer
Create and amend the zoning text	Legislative	Board of Commissioners
Amend the zoning map	Legislative	Board of Commissioners
Hear and decide requests for appeals of administrative decisions	Quasi-judicial	Board of Adjustment
Hear and decide requests for variances	Quasi-judicial	Board of Adjustment
Hear and decide requests for Special Exceptions	Quasi-judicial	Board of Adjustment

11.4 Administrative Decisions

A) **Zoning Compliance Permits.** A Zoning Compliance Permit is required before any structure, or part thereof, is created, erected, changed, or converted in its use, occupancy, or construction. A Zoning Compliance Permit is also required before any new use is established or any existing use is changed on a property, in whole or in part. The following requirements generally apply to all administrative action requests, in addition to other permits that may be required to be obtained from other local, state, or federal agencies to ensure compliance with applicable codes and regulations.

1. **Application.** A complete application form, supporting documentation, and fee (when applicable) is required to be submitted by the property owner or their authorized representative to initiate review by the Zoning Officer and before any unauthorized activity associated with the request commences onsite.

2. **Decision and notice.** Upon full review of a complete application, the Zoning Officer will approve, approve with conditions, or deny the permit. Written notification explaining why a permit was denied shall be provided to the applicant detailing how the request failed to meet the requirements of these regulations.

3. **Zoning Compliance Permit issued.** Whenever a request for an administrative permit is approved in compliance with the regulations, the Zoning Officer shall issue a Zoning Compliance Permit. Any conditions that may apply to this approval will be fully listed on the permit. Zoning Compliance Permits are valid for six months or until the expiration of a building permit unless otherwise stated in the conditions of approval in the permit.

4. **Final Certificate of Zoning Compliance.** The Zoning Officer has the right to conduct a final inspection. No building, structure, or premises may be used or occupied until

the Zoning Officer has issued a Final Certificate of Zoning Compliance stating that the use and arrangement of structures and site features comply with all applicable requirements of these regulations. The Final Certificate of Zoning Compliance may be issued only after the Zoning Officer has determined that the site has been developed in compliance with the site plan approved at the time a Zoning Compliance Permit was issued.

B) Determination of a Vested Right. Any person who believes a past action or approval has granted them a vested right may submit their claim in writing along with documentation in support of their claim to the Zoning Officer. The Zoning Officer shall review the claim and determine its validity. In doing so, the Zoning Officer may request additional information to support the claim. Once a determination has been made, it shall be provided in writing to the applicant.

1. **Criteria for review.** In reaching a decision, the Zoning Officer shall consider:

   a. The alternatives available to the applicant which would conform to zoning and thereby negate hardship claims.

   b. Commitments, taken as a whole, made by the applicant, such as land cost, building materials, planning expenses, site preparation, etc. Financial commitments shall be documented in the application.

   c. Contracts to which the applicant is bound, such as leases or the delivery of a product or service, which would require use of the subject property. Contractual obligations shall be documented in the application.

   d. The length of time the applicant has controlled or owned the subject property and the degree to which plans for new or expanded land use or structures may have relied on previous zoning.

C) Minor Waivers. To encourage creative design, to avoid stifling innovation, and to build needed flexibility into the zoning approval process for developments within the County, the Zoning Officer is authorized to grant a minor waiver from certain standards of these regulations.

1. **Application.** A request for a minor waiver must include a complete application and supporting documentation. Any request for a minor waiver of a standard established in these regulations must include a complete minor waiver application and shall only be granted after the applicant has demonstrated that the waiver will result in an overall project that meets or exceeds all other requirements of these regulations.

2. **Eligibility.** Standards eligible for minor waivers include any standard described as follows:

   a. Lot dimension, density, building placement, scale, and vehicular access in Chapter 2;

   b. Building element design standards in Section 3.4;

c. Access and circulation, parking and loading, landscaping and screening, lighting, and noise/vibration standards in Chapter 6;

d. Numerical standards to hillside and ridgeline development standards in Section 7.1.

e. Riparian resource protection area and buffer widths as described in Section 7.4.

f. A sign standard described in Chapter 8. Creative signs may request administrative relief to numeric design standards in excess of the maximum five percent allowed under Section 11.4.C.4. below.

g. Eligible landscaping size and location in an Adaptive Reuse Development (Section 9.8.D.1.d.). Landscaping locations may be considered under a minor waiver to a non-numeric standard.

3. **Review.** Before granting a minor waiver, the Zoning Officer shall reasonably determine that granting the waiver will not violate the spirit and intent of the regulations and will not adversely affect the rights of other affected property owners in any material manner. The Zoning Officer must also determine that a minor waiver is a more appropriate and reasonable response to the request than a variance or an amendment to these regulations. Conditions of approval are intended to establish the nature and extent of a minor waiver approval.

4. **Waivers limited.** Minor waivers to any numerical standard shall not result in a deviation of more or less than five percent from the adopted design standard. Minor waiver requests to non-numeric standards shall be determined on a case-by-case basis by the Zoning Officer and may require a variance if the waiver is determined to significantly deviate from the intent of these regulations.

5. **Decision and notice.** The authority given to the Zoning Officer to grant a minor waiver shall be construed to be permissive and not mandatory, and the Zoning Officer may decline to grant such waiver. If the request is denied, a written statement of why the waiver was denied will be returned to the applicant, explaining how the request failed to meet the requirements of these regulations. The applicant has the right to appeal the Zoning Officer's decision to the Board of Adjustment. The Zoning Officer may impose conditions on the approval of a minor waiver to meet the intent of these regulations and to mitigate adverse impacts on neighboring properties and to protect public health, safety, and general welfare.

6. Decisions on minor waivers shall be filed in the Office of the County Clerk and Recorder.

D) Appeals. Appeals to administrative decisions may be made by any aggrieved party to the Board of Adjustment as a quasi-judicial decision detailed in this chapter and in accordance with §76-2-226 MCA.

11.5 Legislative Decisions

A) Zoning Requests. The following procedures apply to zoning requests, including creation and amendment of zoning regulations and amendments

to the zoning map. These regulations are intended to summarize or augment adopted rules of procedure and not replace or amend them in any manner inconsistent with applicable rules or procedures detailed in the Montana Code Annotated.

1. **Initiation of text creation or amendment.** The Board of County Commissioners or Zoning Officer may initiate an amendment to the text of these regulations or the creation of new zoning regulations. The creation or amendment of text specific to a legacy district, not including miscellaneous legacy districts listed in Appendix A or Nuclear-Free, Cryptocurrency Mining, or Corridor Advertising Zones, may be initiated by any property owner within the district or by the Board of County Commissioners or Zoning Officer. Amendments to the text of any legacy district must move toward conformance with these zoning regulations.

2. **Initiation of a map amendment.** The Board of County Commissioners, the Zoning Officer, or all of the owner(s) of a subject property or their authorized agent may initiate a map amendment.

3. **Application.** When a text or map amendment has been initiated by the Board of County Commissioners or staff, no formal application or review fee is required. When a map amendment or a text amendment to a legacy district as outlined in Section 11.5.A.1. is initiated by a property owner or authorized agent, a complete application meeting the requirements of these regulations and including the applicable fee shall be submitted prior to official consideration and review.

4. **Staff review.** The Zoning Officer will determine the completeness of each application received and, once deemed complete, will review each application, share the application with other staff and agencies to solicit comments, compile a staff report including recommendations, and transmit the application and staff report to the applicant and their authorized agent, when applicable, as well as each member of the Planning Board.

5. **Notice requirements.** When a notice or public hearing is required by these regulations or state law, the procedures outlined in this section regarding text and map amendments, along with any applicable procedures found in §7-1-2121, §7-1-2122, and §76-2-205 MCA, shall be followed.

6. **Public hearing.** The Planning Board shall hold a public hearing on the application. Notice of the public hearing shall conform with the requirements set forth in §76-2-205 MCA.

7. **Criteria for review.** Before making a recommendation to the Board of County Commissioners on a request to adopt new zoning regulations or amend the existing zoning map or text, the Planning Board shall

evaluate the proposed amendment to ensure its conformance with the *Missoula County Growth Policy* and that it meets the criteria and guidelines set forth in §76-2-203 MCA as follows.

a. Zoning shall be made in accordance with the growth policy.

b. Zoning shall be designed to:

   i. Secure safety from fire and other dangers;

   ii. Promote public health, public safety, and general welfare; and,

   iii. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

c. Zoning shall provide for and consider:

   i. Reasonable provision of adequate light and air;

   ii. The effect on motorized and nonmotorized transportation systems;

   iii. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;

   iv. The character of the district and its peculiar suitability for particular uses; and,

   v. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

d. Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities well as any other applicable criteria found in the *Missoula County Growth Policy*.

8. **Planning Board action.** In taking action on a zoning request, the Planning Board may recommend that the Board of County Commissioners:

   a. Deny the request, stating specific reasons for this recommendation, supported by findings of fact;

   b. Approve the request, supported by findings of fact;

   c. Approve the request with reasonable modifications, supported by findings of fact.

9. **Information delivered to the Board of County Commissioners.** Following a formal recommendation by the Planning Board, the Zoning Officer shall deliver both the staff and Planning Board recommendations, in writing, to the Board of County Commissioners along with a copy of the Planning Board's meeting minutes.

10. **County Commission action.** In addition to any procedures noted for text or map creation or amendments, the Board of County Commissioners may approve or disapprove of any proposed zoning request or approve a request with modifications. The Board of County Commissioners may consider such modifications as necessary to ensure the criteria for review established in §76-2-203 MCA are met. These include, but are not limited to, any

change in wording or standards necessary. At the discretion of the Commission, any modification it deems significant may require additional public hearings and notices and shall be supported by findings of fact.

11. **Appeals of legislative zoning decisions.** Any person or persons, jointly or severally, aggrieved by a decision of the Board of County Commissioners may present to a court of record a petition in accordance with §76-2-227(2) MCA within 30 days after the filing of the decision with the County Clerk and Recorder or from date of Commission action, whichever occurs later.

B) Exception for Interim Zoning. The procedures for interim zoning are subject to the process and provisions set forth in §76-2-206 MCA.

11.6 Quasi-Judicial Decisions

A) General Procedures. The following procedures are intended to summarize or augment adopted rules of procedure and not replace or amend them in any manner inconsistent with applicable rules or procedures detailed in the Montana Code Annotated.

1. **Application.** A complete application must be submitted by the property owner or their authorized representative before any activity associated with the request commences onsite. A complete application is required to initiate a review by the Zoning Officer and consideration by the Board of Adjustment.

2. **Notice requirements.** All meetings of the Board of Adjustment are public and require public notice. Notice of the public hearing shall conform with the requirements in accordance with §7-1-2121 and §7-1-2122, MCA.

3. **Decisions.** In making its decision, the Board of Adjustment may:

   a. Deny the request;

   b. Approve the request; or,

   c. Conditionally approve the request with reasonable modifications or conditions.

   All conclusions and decisions of the Board of Adjustment shall be based on findings provided in writing to the applicant. The written decision shall also include any required modifications or conditions and be consistent with procedures established in the board's bylaws. The Zoning Officer shall file the decision of the Board of Adjustment at the Office of the Clerk & Recorder.

4. **Appeals of quasi-judicial decisions.** Any person or persons, jointly or severally, aggrieved by a decision of the Board of Adjustment may present to a court of record a petition in accordance with §76-2-227(2) MCA within 30 days after the filing of the decision in the office of the County Clerk and Recorder or from date of Board of Adjustment action, whichever occurs later.

5. **Timeframe for conditional approvals.** A conditional approval per Section 11.6.A.3.c. is valid for a period of three years starting on the date of the filing of the Board of Adjustment's decision in the Office of the County Clerk and Recorder. A one-time extension may be

granted by the Zoning Officer for no more than one year if the Zoning Officer determines the extension is necessary to address delays beyond the reasonable control of the applicant. A Final Certification of Zoning Compliance demonstrating all modifications are complete and all conditions are met must be issued prior to the end of the three-year period. The failure to receive issuance of a Final Certification of Zoning Compliance will invalidate the conditional approval of the Board of Adjustment and the conditional approval will be considered revoked.

B) Appeals of Administrative Decisions. The Board of Adjustment may hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Officer in the enforcement or administration of these regulations.

1. **Grounds and limitations.** Appeals to the Board of Adjustment may be made by any person, board, association, or corporation allegedly aggrieved by the granting or refusal of a Zoning Compliance Permit or minor waiver or by any other administrative decision provided for in these regulations. Hardship shall not be grounds for requesting or approving an appeal. Appeals may not be made until all other administrative remedies provided in these regulations have been exhausted.

2. **Stays.** An appeal stays all activities associated with the request and decision appealed from unless the Zoning Officer certifies to the Board of Adjustment after the notice of appeal has been filed that a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order granted by a court of record.

3. **Criteria for review.** In considering a request for appeal, the Board of Adjustment shall consider the written record and reports from the Zoning Officer documenting actions relevant to the appeal and testimony and evidence submitted by the applicant in support of their request.

C) Variances. The Board of Adjustment may approve a variance from a specific requirement of these regulations provided it is not contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the regulations will result in unnecessary hardship. In granting the variance, the board must ensure that the spirit of the regulations is observed and substantial justice is done. Procedural and administrative variances shall not be considered.

1. **Criteria for review.** A variance from a specific requirement of these regulations shall not be granted by the Board of Adjustment unless and until the applicant demonstrates all of the following:

   a. The proposed variance will not authorize a use that is not already authorized in the zoning district.

   b. The proposed variance will not authorize additional density beyond what is allowed in the zoning district.

   c. Special conditions exist that are unique to the property, such as size, shape, topography, or

location, which do not apply to other lands in the same zoning classification.

d. Literal enforcement of the provisions of these regulations will result in unnecessary hardship that is not of the applicant's own making.

e. Granting the variance will be in harmony with the general purpose and intent of these regulations and the *Missoula County Growth Policy* and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

f. The request for the variance is not based on monetary factors or potential economic gain.

2. **Minimum variance.** In making its decision, the Board of Adjustment shall demonstrate that the variance granted is the minimum variance that will make possible a reasonable use of the land, building, or structure.

3. **Conditions.** In considering an application for a variance, the Board of Adjustment may attach reasonable and appropriate conditions to ensure that any potentially injurious effect of the variance on adjoining properties, the character of the neighborhood, or the health, safety and general welfare of the community will be minimized. Such conditions shall be based on the criteria for review and shall be reflected in the board's findings and conclusions. The applicant shall have a reasonable opportunity to consider and respond to any conditions or requirements before final action by the Board of Adjustment.

D) Special Exceptions. The Board of Adjustment is authorized to grant Special Exception permits authorizing a use established as eligible for such classification according to the districts set forth in Chapter 2 but which, because of location, scale, required infrastructure, or other potential impacts, requires a special degree of consideration and control to ensure such uses are consistent and compatible with the overall community character.

1. **Application.** To initiate review by the Zoning Officer and consideration by Board of Adjustment, a complete application must be submitted by the property owner or their authorized representative before any activity associated with the request commences onsite. In submitting a request for a Special Exception Permit, the applicant shall address all of the following:

   a. Access, traffic, and parking demand created by or impacted by the use, and pedestrian, bicycle, and onsite vehicular circulation.

   b. Dedication and development of streets, right-of-way, and public use areas, such as sidewalks adjoining the property and the capacity to handle the use.

   c. Impacts on or of public and private utilities or services.

   d. Proposed siting of any new structures necessary to accommodate the use and their relationship to adjoining and surrounding properties.

e. Recreation opportunities and open lands available to serve the use.

f. Natural resource protections.

g. Landscaping and screening requirements.

h. Signage and sign lighting, as applicable.

i. Noise, vibration, outdoor lighting, and other on and off-site impacts resulting from the use.

j. Frequency of use and hours of operation.

k. Area of land necessary and adequacy of the site to accommodate the use and meet the intent of the district and character of the neighborhood.

l. Where applicable, how the proposed use addresses the purpose of the TIF Special District intended to attract, retain, grow and develop secondary value-adding industries.

m. Any other unique or relevant circumstances related to the property.

2. **Criteria for review.** A request for a Special Exception Permit shall not be approved unless and until the Board of Adjustment finds the application demonstrates all of the following:

a. The proposed use or development will be compatible with and will not substantially injure the value of adjoining property.

b. The proposed use preserves the character of the district, and the property is suitable for the use proposed (*e.g.*, can meet the bulk and dimensional standards without requiring a variance).

c. The proposed use promotes the purpose and intent of the TIF Special District, where applicable.

d. Substitute or additional design standards will preserve and protect the area's architectural and aesthetic qualities.

e. In reviewing a Special Exception application, the board shall give due consideration to all of the factors listed in 11.6.D.1.a-m.

3. **Conditions.** In considering an application for a Special Exception, the Board of Adjustment may attach reasonable and appropriate conditions to ensure that any potentially injurious effect of the Special Exception on adjoining properties, the character of the neighborhood, the purpose and intent of the TIF Special District (if applicable), or the health, safety and general welfare of the community will be minimized. Such conditions shall be based on the criteria for review and shall be reflected in the board's findings and conclusions. The applicant shall have a reasonable opportunity to consider and respond to any conditions or requirements before final action by the Board of Adjustment.

4. **Amendment.** Any amendments to an approved Special Exception Permit shall require the same process and procedure as the

original request, except that the Zoning Officer may approve minor adjustments to a plan approved by the Board of Adjustment which are not contrary to the findings and conclusions upon which the board's approval was based and which do not affect the intent and basic character of the approved plan and will not adversely affect adjoining or nearby properties in any material way.